

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICHARDINE NESMITH,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:18-CV-16534-JMV-JBC
)	
iENERGIZER HOLDINGS, LLC; FIRST)	
CONTACT, LLC a/k/a iQOR; GC)	
SERVICES L.P.; and ALORICA, INC.)	
f/k/a EGS FINANCIAL CARE, INC.)	
)	
Defendants.)	

DEFENDANT FIRST CONTACT LLC’S ANSWER TO COMPLAINT

Defendant First Contact LLC (“Defendant”), by its undersigned attorneys, files this Answer and affirmative defenses to the Complaint of plaintiff, Richardine Nesmith (“Plaintiff”), as follows:

I. INTRODUCTION.

1. Defendant admits the allegations in this paragraph.

II. JURISDICTION AND VENUE.

2. Defendant admits the allegations in this paragraph.

3. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

III. PARTIES.

5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

7. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

9. Defendant admits the allegations in this paragraph.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

11. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

12. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

13. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

14. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

15. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

IV. FACTUAL ALLEGATIONS.

16. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

17. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

18. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

19. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

20. Defendant denies the allegations in this paragraph.

21. Defendant denies the allegations in this paragraph.

22. Defendant denies the allegations in this paragraph.

23. Defendant denies the allegations in this paragraph.

24. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

25. Defendant denies the allegations in this paragraph.

26. Defendant admits the allegations in this paragraph.

27. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

28. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

29. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

30. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

V. CLAIM UNDER THE TELEPHONE CONSUMER PROTECTION ACT.

31. Defendant re-alleges and incorporates paragraphs 1-30 above as though the same were set forth at length herein.

32. Defendant admits the allegations in this paragraph.

33. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies them.

34. Defendant denies the allegations in this paragraph.

35. Defendant denies the allegations in this paragraph.

36. Defendant admits the allegations in this paragraph.

37. Defendant denies the allegations in this paragraph.

38. Defendant admits the allegations in this paragraph.

39. Defendant denies the allegations in this paragraph.

40. Defendant denies the allegations in this paragraph.

41. Defendant denies the allegations in this paragraph.

42. Defendant denies the allegations in this paragraph.

AFFIRMATIVE DEFENSES

**FIRST AFFIRMATIVE DEFENSE
(Consent)**

1. For its first affirmative defense to all causes of action alleged in the Complaint, Defendant alleges on information and belief that Defendant had consent for the subject calls.

**SECOND AFFIRMATIVE DEFENSE
(Good Faith Defense)**

2. For its second affirmative defense, Defendant alleges it had a good-faith basis to believe that any calls to the Plaintiff from Defendant were made in good faith based on

Defendant's understanding Plaintiff had provided consent to the creditors on whose behalf Defendant sought to collect a debt.

THIRD AFFIRMATIVE DEFENSE
(Unintentional Violation/Bona Fide Error)

3. For its third affirmative defense, Plaintiff's claims are barred because any violation by Defendant was unintentional and resulted from a good faith error notwithstanding the fact that Defendant maintains procedures reasonably adapted to avoid any such error.

FOURTH AFFIRMATIVE DEFENSE
(Superseding Cause)

4. For its fourth affirmative defense, any purported damages suffered by Plaintiff were caused in whole or in part by the actions or omissions of third parties over whom Defendant had no control, authority, or responsibility and the conduct of said third parties constitutes an intervening or superseding cause of Plaintiff's alleged damages, if any.

ADDITIONAL DEFENSES

Defendant reserves its right to amend this Answer and assert any additional affirmative defenses that may be revealed during the course of discovery.

WHEREFORE, Defendant prays for relief as follows:

- A. That Plaintiff takes nothing by way of the Complaint;
- B. That judgment be entered in favor of Defendant and against Plaintiff;
- C. That Defendant be awarded its costs of suit incurred herein;
- D. Any other relief the Court deems appropriate.

Attorneys for Defendant First Contact LLC

DATED: February 11, 2019

KATTEN MUCHIN ROSENMAN LLP

s/ Jonathan Rotenberg

Jonathan Rotenberg

Paul A. Grammatico (pro hac vice
forthcoming)

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